

# *Answers to the Most Common Questions about MassDEP Fees*

MassDEP's Bureau of Waste Site Cleanup has prepared this Q&A to answer common questions regarding fees for sites regulated under Massachusetts General Law Chapter 21E.

## **1. What are these fees for? Are they a penalty?**

Annual Compliance Assurance Fees for "21E" sites are not penalties. Fees cover a portion of MassDEP's costs to regulate sites where there has been a release or threat of release of oil or hazardous materials. MassDEP's regulatory activities may include site inspections, compliance monitoring and assistance, audits of reports, and enforcement actions. Fee rates are not negotiable and cannot be waived. Additionally, with the exception of state agencies, fees are payable by all parties, including businesses, partnerships, realty trusts, property developers, cities and towns, housing authorities, non-profits, and individuals.

## **2. How is the fee category determined and how many years of fees will be applicable?**

The fee category is determined by the **Tier Classification** applicable to the site on each **Annual Status Date**, or billable year end date. The first Status Date is typically one year from initial notification. A fee is applicable for each billable year, until and including the year that a Class-A or Class-B Response Action Outcome (RAO) Statement is submitted. Once a billable year is over, the fee category for that year cannot be changed.

## **3. The site was classified as Tier II and an RAO Statement documenting final cleanup was already submitted to DEP. Am I required to pay fees?**

Fees are required for each year of the period during which assessment and cleanup activities were ongoing, until and including the year that the RAO Statement was received by MassDEP. If you believe the RAO Statement was filed in an earlier year than the last year listed on the invoice, you may request a review as outlined in the Statement of Billing Rights included with the invoice. Please include proof of submittal of the RAO, such as a copy of the transmittal form showing the MassDEP date stamp or a copy of a certified mail return receipt card.

## **4. The property has been sold. Am I required to pay fees?**

In most cases, yes. Fees for past response actions are not necessarily billed to the current property owner; they are billed to the party who filed the Tier Classification or performed the response actions at the site. If another party such as a new owner intends to take responsibility for continuing the required cleanup, a Tier Classification Transfer form (BWSC-107) needs to be submitted to MassDEP. Future fees would be billed to the new party, starting with the billable year in which MassDEP receives the completed Transfer form. Please contact your Licensed Site Professional for further guidance regarding a Tier Classification Transfer.

## **5. I've been billed fees for two Release Tracking Numbers at the same location. Can they be "linked" together?**

Two or more Release Tracking Numbers (RTNs) may be linked together under a single Tier Classification to reduce future Annual Compliance Fees. This requires submittal of a Tier Classification Transmittal Form (BWSC-107), or an Immediate Response Action Completion Statement form (BWSC-105). If one RTN is already Tier Classified and there is a reasonable likelihood that the addition of the secondary RTN would change the classification of the primary RTN, a Revised Tier Classification is required. When two or more RTNs are linked together, all future response actions must occur according to the deadlines applicable to the primary RTN (the site with the earliest initial status date). Please contact your Licensed Site Professional for further guidance regarding linking RTNs.

## **6. I am a homeowner. Can I qualify for an alternative rate?**

In some instances, yes. Homeowners who meet the following definition qualify for alternative fee rates: *an owner occupant of a residential one to four family structure who has provided a written certification on a Department approved form and whose structure has been used exclusively as a one to four family residence throughout his or her ownership, where the owner's unit is the owner's principal residence for six or more months of the year and the owner is conducting response actions at the residence in response to a release of oil.* Homeowners who submit the Certification Form qualify for an alternative rate of \$1,000 per year for the Tier IA, IB, IC and Tier II fee categories and \$2,000 per year for Tier ID. Upon receipt of a completed form, your invoice may be adjusted to reflect the Homeowner fee rates. The alternative rates only apply to billable years ending on or after June 27, 2003. The Homeowner Certification Form, BWSC-120, is available from MassDEP or on the internet at [www.mass.gov/dep/cleanup/approvals/bwsc-120.pdf](http://www.mass.gov/dep/cleanup/approvals/bwsc-120.pdf)

## **7. Why does the invoice show a Credit?**

Sometimes fees are mistakenly included with report submittals. If this type of payment is identified by MassDEP, a credit is entered on the invoice. Credits are most often processed when a payment is received for an inapplicable fee, such as a \$1,200 Response Action Outcome (RAO) fee. A "one-time" RAO fee is generally only required when the RAO submittal is made prior to Tier Classification of the site. Refer to the *MCP Timelines & Fees factsheet* for additional information about one-time fees.

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## **8. I filed a Downgradient Property Status (DPS) submittal demonstrating that the contamination migrated onto my property. Am I still subject to an Annual Compliance Fee?**

If the DPS submittal is made in the first year prior to the Tier Classification deadline, a \$1,600 DPS fee is required, and the party that maintains the DPS is not subject to subsequent annual compliance fees. If the DPS submittal is made after the first year Tier Classification deadline, then an annual compliance fee is assessed for the billable year in which MassDEP receives the DPS submittal. The fee is based on the site classification in effect for that billable year. Thereafter, the party that maintains DPS is not subject to annual compliance fees.

## **9. Why does the invoice show a “default” or Tier ID fee?**

A default Tier IB or Tier ID fee may be listed on the invoice if no initial Tier Classification submittal has been made to MassDEP, or if the Tier Classification submittal was not received by the classification deadline.

## **10. Why is there more than one fee included on the invoice?**

An invoice may include fees for more than one billable year. While streamlined billing procedures continue to be implemented, some delays have occurred. MassDEP apologizes for this inconvenience. If the amount on the invoice poses a severe financial hardship, you may request an extended payment arrangement as outlined in the Statement of Billing Rights included with the invoice.

## **11. What if the invoice cannot be paid in full by the due date because of a financial hardship?**

In cases of severe financial hardship MassDEP will consider entering into an extended payment arrangement. Please refer to the Statement of Billing Rights included with the invoice for additional information regarding financial hardship. You may also want to contact your Licensed Site Professional (LSP) or MassDEP to learn whether future fees will be applicable for your site.

## **12. How can I reduce the amount of future fees?**

If you have not filed a Class A or Class B Response Action Outcome (RAO) Statement, you may be able to reduce future fees that may be applicable to your site. You should ask your Licensed Site Professional whether any of the following are applicable.

- **Reclassification:** Downgrades your site from the current classification (e.g. Tier IA, IB, IC, ID) to a classification with a lower fee (e.g. Tier II); submit reclassification form at any time prior to or concurrent with the RAO Statement;
- **Class A or Class B RAO:** Documents that a Permanent Solution has been achieved; an Annual Compliance Fee is billed until and including the year that a Class A or Class B RAO Statement is submitted to DEP;
- **Implement Phase V:** Once Phase IV cleanup actions have been completed and Phase V activities (Operation, Maintenance or Monitoring) are being performed, you qualify for the Phase V fee rate of \$800 per year;
- **Class C RAO:** Documents that a Temporary Solution has been achieved; fee category changes to Post RAO Class C Operation Maintenance or Monitoring (\$800 per year);
- **Homeowner Certification:** Submit a Homeowner Certification Form as described in Question 6, if applicable.

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### ***Common Terms & Acronyms:***

**ACF** – Annual Compliance Assurance Fee

**BWSC** – Bureau of Waste Site Cleanup

**Default Site** – Tier Classification deadline was not met and site was classified by default as Tier ID

**DPS** – Downgradient Property Status; submittal that documents contamination that has migrated from one property to another

**LSP** – Licensed Site Professional; oversees assessment and cleanup activities in Massachusetts

**MassDEP** – Massachusetts Department of Environmental Protection

**MCP** – Massachusetts Contingency Plan, 310 CMR 40.0000; state regulations that govern site assessment and cleanup

**M.G.L. Chapter 21E** – Massachusetts General Law Chapter 21E; governs oil and hazardous waste sites and spills

**RAO Statement** – Response Action Outcome Statement; typically the final report documenting a site cleanup

**RTN** – Release Tracking Number; assigned to each report of a release or threat-of-release of oil or hazardous materials

**Status Date** – The date used for billing Annual Compliance Assurance Fees, generally one year from initial notification and each year thereafter

**Tier Classification** – Used to classify each disposal site and determines the applicable fee category for each year

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**Mail payments with the invoice stub to: Commonwealth of Massachusetts, PO Box 3982, Boston MA 02241-3982.**

**DEP Website:** [www.mass.gov/dep/cleanup/approvals/fees.htm](http://www.mass.gov/dep/cleanup/approvals/fees.htm)

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